

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION**

CONTEMPT PETITION NO.290 OF 2005

Makarand D. Sugavkar. ..Petitioner.

V/s.

Shri Sai Neketan Co-op. Housing
Society Ltd. and Ors. ..Respondents.

Mr.M.D.Sugaonkar for petitioner.

Mr.Kishore M. Jawle for respondent Nos.1 to 6.

Mr.Khadapkar, AGP for respondent No.7.

Mr.A.S.Desai for respondent No.8.

CORAM: A.M.KHANWILKAR, J

DATE : AUGUST 7, 2006.

P.C. :

1. Heard counsel for the parties.

2. By this petition, grievance is made about wilful defiance of the injunction order passed by the Maharashtra State Co-operative Appellate Court, Mumbai dated 9th August, 2005 below Stay Petitions dated 8th July, 2005 and 8th August, 2005 in Appeal No.56 of 2005. The direction in the said order contained in paragraph-4 reads thus:

"Interim stay granted against respondents nos.1 to 3 restraining from proceeding further in pursuance of the notice dated 29.7.2005 purported to have been issued by

respondent no.3 i.e. Chairman of the
opponent no.1 society for recovery of
Rs.88,008/- till the next date fixed in the
matter i.e. 22.8.2005"

3. It is the case of the petitioner that inspite of this order the respondents/contemnors proceeded by taking recourse to proceeding under section 101 of the Maharashtra Cooperative Societies Act. Besides, the respondents/contemnors passed resolution to dismember the petitioner from the respondent-society. Both these actions were initiated after 9th August, 2005.

4. The respondents/contemnors have candidly conceded before this court that they resorted to both these actions inspite of the knowledge of the order dated 9th August, 2005. However, the stand taken by them is that steps were taken on the basis of advise given to them by their advocate and not with a view to show disregard to the order passed by the court. Besides, it is stated that as soon as the respondents/- contemnors realised the gravity of the situation, immediately filed application before the Cooperative Court on 13th October, 2005 requesting for permission to withdraw the proceeding instituted against the petitioner. Besides, the respondents/contemnors have also unconditionally

withdrawn letter dated 27th August, 2005 expelling the petitioner from Society's membership. The respondents have also communicated to the petitioner in this behalf in writing on 13th October, 2005 and expressed apology for the same.

5. Taking overall view of the matter as the respondents contemnors have purged themselves of the contempt committed by them, it is unnecessary to precipitate the matter any further. Unconditional apology tendered by the respondents/contemnors is accepted on condition that the Respondents would withdraw the proceeding under section 101 of the Act, if already not withdrawn.

6. Accordingly, this petition is disposed of. Notice issued to the respondents/contemnors in this petition stands discharged.